

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK  
DESHAUN SOMERS,**

**Plaintiff,**

**9:21-cv-1174  
(GLS/ML)**

**v.**

**CORRECTIONAL OFFICER  
POWERS et al.,**

**Defendants.**

**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

Deshaun Somers  
Pro Se  
17-B-2895  
Five Points Correctional Facility  
Caller Box 119  
Romulus, NY 14541

**FOR THE DEFENDANTS:**

HON. LETITIA JAMES  
New York State Attorney General  
The Capitol  
Albany, NY 12224

RACHAEL OUIMET  
Assistant Attorney General

**Gary L. Sharpe  
Senior District Judge**

**ORDER**

The above-captioned matter comes to this court following a Report and Recommendation (R&R) by Magistrate Judge Miroslav Lovric, duly filed April 20, 2023. (Dkt. No. 41.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all objections filed by the parties

herein.

No objections having been filed, and the court having reviewed the R&R for clear error, it is hereby

**ORDERED** that the Report and Recommendation (Dkt. No. 41) is **ADOPTED** in its entirety; and it is further

**ORDERED** that defendants' motion to dismiss (Dkt. No. 40) is **GRANTED**; and it is further

**ORDERED** that plaintiff's complaint (Dkt. No. 1) is **DISMISSED**; and it is further

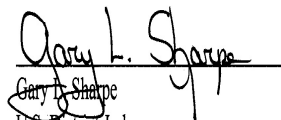
**ORDERED** that defendants' motion, to the extent it seeks an award of fees, costs and disbursements (Dkt. No. 40) is **DENIED** at this juncture; and it is further

**ORDERED** that the Clerk is directed to close this case; and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

**IT IS SO ORDERED.**

May 15, 2023  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge